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Supreme Court of the United States

OCTOBER TERM, 1924

No. [redacted] 122

SAMUEL A. MYERS and HARRY MYERS
AS S. A. & H. MYERS,

Petitioners,

v.

INTERNATIONAL TRUST COMPANY,

Respondent.

MOTION FOR RECONSIDERATION.

JOHN R. LAZENBY,
For Respondent.

Notice.

Supreme Court of the United States

OCTOBER TERM, 1924

SAMUEL A. MYERS and HARRY MYERS S. A. & H. MYERS v. INTERNATIONAL TRUST COMPANY.	No. 1256

SIR:

PLEASE TAKE NOTICE that on the 8th day of June, 1925, the Supreme Court of the United States made an order granting leave to present a petition for a rehearing of the order granting writ of certiorari within ten days; that on or about the 5th day of June, 1925, an original motion was filed, of which the annexed is a copy; that said motion or petition will be filed forthwith and presented in accordance with said order.

Dated, June 10th, 1925.

JOHN R. LAZENBY,
Attorney for International Trust Company.

To:

EDWARD F. MCCLENNEN, Esq.,
Attorney for the Petitioners,
S. A. & H. Myers,
161 Devonshire Street,
Boston, Massachusetts.

SUPREME COURT OF THE UNITED STATES

OCTOBER, 1924, TERM

SAMUEL A. MYERS and HARRY MYERS as S. A. & H. MYERS,
Petitioners,

vs.

INTERNATIONAL TRUST COMPANY,
Respondent.

Motion for Reconsideration.

Respectfully represents the respondent, International Trust Company, that at the trial of the above entitled case, in the Superior Court for the County of Suffolk, Commonwealth of Massachusetts, there were admitted in evidence as part of the case of the International Trust Company, the then plaintiff, the Creditors' Involuntary Petition filed in the United States District Court for the District of Massachusetts and also the Debtors' Schedules filed in the same Court, which documents were marked Exhibits 2 and 3 respectively, that when the record on appeal to the Supreme Judicial Court for the Commonwealth of Massachusetts was prepared and printed, it was stipulated between the parties that said Exhibits 2 and 3 should not be printed, but should be produced at the time of argument, in said Supreme Judicial Court; that at the argument in said Supreme Judicial Court, said exhibits were produced and handed to Rugg, C. J. Said exhibits were part of the record.

That the exhibits are of vital importance to the case of the International Trust Company in that the Creditors' Petition shows against whom the bankruptcy proceedings were brought and the Debtors' Schedules show what debts were listed and the form in which the Schedules were prepared.

That after the decision of the said Supreme Judicial Court reversing the said Superior Court, and a decree on the mandate entered in the said Superior Court, Edward F. McClennen, counsel for the petitioners, gave notice of his intention to apply to this Court for a writ of certiorari and was requested by the International Trust Company to file with the petition as part of the record said Exhibits 2 and 3; the petition and record were filed with this Court on or about May 21, 1925, and presented on May 25, 1925, and this Court granted the writ on June 1, 1925.

That on June 3, 1925, the respondent, the International Trust Company, discovered that the petitioners had not filed with the petition and record said Exhibits 2 and 3, and the said Trust Company thereupon obtained them and now files them with this motion.

That said Exhibits were a necessary part of the record in this case, that the record as filed was incomplete and was known to the petitioners to be incomplete, that an inspection and examination of said Exhibits were necessary for a proper consideration of the petition for a writ of certiorari, that fairness and justice required that the record as submitted to the Supreme Judicial Court of the Commonwealth of Massachusetts be submitted to this Court to enable this Court to consider what evidence had been presented by the International Trust Company and what question of law was decided by the said Supreme Judicial Court.

That the order granting said writ of certiorari was made by this Court upon an incomplete and improper record as aforesaid;

WHEREUPON the respondent the International Trust Company moves that this Court reconsider said petition for certiorari, having now before it the complete record in the case.

INTERNATIONAL TRUST COMPANY,
By JOHN R. LAZENBY,
Its Attorney.

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.:

I, John R. Lazenby, being duly sworn, say that on the fourth day of June, 1925, I served a copy of the above motion by leaving a copy thereof at the office of Edward F. McClennen, attorney for the petitioners, at #161 Devonshire Street, Boston, Massachusetts, and that said motion would be filed forthwith in the office of the Clerk of the Supreme Court and presented on Monday, June 8, 1925, to the Court or at the first Court day thereafter.

JOHN R. LAZENBY.

Subscribed and sworn to before me this 4th day of June, 1925.

STUART MONTGOMERY
Notary Public
My commission expires Nov. 3, 1927.

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

A copy of the above notice and motion was served by me upon Edward F. McClennen, by leaving at his office, 161 Devonshire Street, Boston, Massachusetts, two copies of the same on the 1st day of June, 1925.

Stuart Montgomery

Subscribed and sworn to before me this 1st day of June, 1925.

Elmer R. Beeler
Notary Public
Notary Seal

my commission expires Feb 27, 1931.

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

A copy of the memorandum in support of the within motion was served by me upon Edward F. McClennen, by leaving at his office, 161 Devonshire Street, Boston, Massachusetts, two copies of the same, on the 1st day of June, 1925.

Stuart Montgomery

Subscribed and sworn to before me this 1st day of June, 1925.

Elmer R Beeler
Notary Public
Notary Seal

my commission expires Feb 27 1931